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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/576,672	04/21/2006	Makoto Sanpei	1210360-089	7213

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BUTZEL LONG  
IP DOCKETING DEPT  
350 SOUTH MAIN STREET  
SUITE 300  
ANN ARBOR, MI 48104

EXAMINER
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LENIHAN, JEFFREY S

ART UNIT	PAPER NUMBER
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1796

NOTIFICATION DATE	DELIVERY MODE
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06/09/2009

ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

PATENT@BUTZEL.COM  
BOUDRIE@BUTZEL.COM

<b>Office Action Summary</b>	<b>Application No.</b> 10/576,672	<b>Applicant(s)</b> SANPEI ET AL.	
	<b>Examiner</b> Jeffrey Lenihan	<b>Art Unit</b> 1796	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 12 March 2009.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-6 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-6 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## DETAILED ACTION

### *Specification*

1. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of **50 to 150 words** (emphasis added). It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

2. The abstract of the disclosure is objected to because of undue length. Correction is required. See MPEP § 608.01(b).

### ***Claim Rejections - 35 USC § 103***

3. Claims 1-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ikemoto et al, US20020068797 (of record), in view of Yang et al, US2004/0106723, and Hong, US20040226393 (of record).

4. The disclosures of Ikemoto and Hong can be found in the previous Office Action, incorporated herein by reference. Ikemoto and Hong are both silent regarding the addition of a C<sub>8</sub>-C<sub>12</sub> α-olefin oligomer having a number average molecular weight of 300-1400 to EPDM/EPM.

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5. Yang discloses the use of oligomers of C<sub>6</sub> to C<sub>14</sub> α-olefins (claims 1, 2) (¶0077) having a number average molecular weight in the range of 100 to 21,000 (claims 1, 2) (¶0079) as a non-functionalized plasticizer (NFP) for polyolefin homopolymers and copolymers (¶0002, 0039). Yang discloses that the polyolefin is present in the final composition at levels from 40 to 99.9% by weight, based on the total weight of polyolefin and NFP; by extension, the composition comprises 0.1 to 60% by weight of the NFP (claims 1, 2) (¶0043). Yang discloses that the addition of the NFP results in a polymer composition having improved properties (¶0007-0008).

6. Ikemoto teaches that the polymer composition of US2002/0068797 may contain additives (¶0033-0034). As taught by Yang, it was known in the art to use low molecular weight oligomers of C<sub>6</sub> to C<sub>14</sub> α-olefins as plasticizers for polyolefin copolymers. The examiner therefore takes the position that it would be obvious to one of ordinary skill in the art at the time the invention was made to modify the damper rendered obvious by the combination of Ikemoto and Hong by adding 1 to 60% by weight of a C<sub>6</sub> to C<sub>14</sub> α-olefins having M<sub>n</sub> of 100 to 21,000 to the EPDM/EPM composition, for the purpose of obtaining a damper having improved properties, as taught by Yang.

### ***Response to Arguments***

7. Applicant's arguments with respect to claims 1-6 have been considered but are moot in view of the new ground(s) of rejection.

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8. As conceded by applicant, the use of the transitional phrase “comprising” in independent claims 1 and 2 renders the claims open-ended and does not restrict the composition to the recited components. The presence of the resorcinol-based compound and the melamine resin in the polymer composition of Ikemoto therefore does not disqualify a rejection of claims over Ikemoto as prior art.

9. Applicant references the results obtained from the presented working examples, appearing to argue that unexpected results are obtained from a damper made using the claimed composition (see reference to results from working examples, page 8). The examiner takes the position, however, that the allegedly unexpected results are not commensurate in scope with the claims as currently written. The examiner notes that examples 1-3 are all prepared using the same  $\alpha$ -olefin oligomer, which is recited to have an octyl group side chain and  $M_n$  of 690, and 3 phr dicumyl peroxide. Said oligomer is added in amounts of 10, 15, or 20 pbw to 100 pbw of the rubber. Applicant has therefore has not demonstrated that the allegedly unexpected results may be obtained commensurate in scope with the claimed limitations of 5-50 pbw of an oligomer prepared from an olefin of the formula  $CH_2=CHR$ , wherein R is a  $C_6$ - $C_{10}$  alkyl group, having  $M_n$  in the range of 300 to 1400 and 1-10 pbw of an organic peroxide cross-linking agent.

10. Applicant states that Ikemoto is directed towards a rubber composition used for making reinforced automobile hoses; the examiner disagrees and notes that Ikemoto states that the rubber composition of US2002/0068797 may be used in the production of rubber vibration insulators (§0036).

***Conclusion***

1. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeffrey Lenihan whose telephone number is (571)270-5452. The examiner can normally be reached on Monday through Thursday from 7:30-5:00 PM, and on alternate Fridays from 7:30-4:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James J. Seidleck can be reached on 571-272-1078. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/ Irina S. Zemel/  
Primary Examiner, Art Unit 1796

Jeffrey Lenihan  
Examiner, Art Unit 1796

/JL/